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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,934	04/19/2001	Garry Van Houten	LII161A US	8324
21133	7590	10/22/2003	EXAMINER	
VAN OPHEM & VANOPHEM, PC 51543 VAN DYKE SUITE 103 SHELBY TOWNSHIP, MI 48317-4447			STORMER, RUSSELL D	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/837,934

Applicant(s)

VAN HOUTEN ET AL.

Examiner

Russell D. Stormer

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9, 11, 15-19 and 21-30 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 10, 12, 13, 14 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, 3, 5, 11, 15-19, 21, and 24-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Kinstler.

With respect to claims 11 and 15, the portion 84 of the trim ring in the embodiment shown in figure 5 is considered to be an annular bead, and would act as a bead to retain a wheel weight clip.

As the trim and the cladding are always shown to be overlapped (in figures 2-8), it must be assumed that they always overlap in the radial direction over the entire circumference of the rim regardless of tolerance variations of the cladding and/or the trim ring.

3. Claims 29 and 30 are rejected under 35 U.S.C. 102(a) as being anticipated by Ferriss et al.

Ferriss et al (previously cited by Applicants) discloses a wheel assembly in which a trim ring 40 and a cladding 14 overlap in the radial direction as shown in figures 1 and 2. It is inherent that the trim ring and the cladding would overlap regardless of any tolerance variations of the trim ring or the cladding.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinstler.

Kinstler meets the limitations of claim 5 as set forth above but the cladding is not disclosed as being made of plastic.

For the cladding to be made of plastic would have been obvious to those of ordinary skill in the art because the use of plastic is well-known in this type of

wheel cover or cladding, and the substitution of plastic for metal would result in a lighter and less expensive wheel cover.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinstler in view of Kemmerer et al.

For the trim ring of Kinstler to include complementary interlocking portions on the rim flange and the trim ring would have been obvious to one of ordinary skill in the art based on the teachings of Kemmerer et al. See figures 3, 8, 18, and 19 of Kemmerer et al which show a groove in the rim flange which receives the portion of the cladding which overlaps the rim flange. In the same manner, the trim ring of Kinstler could have a lip to be received in a groove formed in the rim flange as this would positively retain the trim ring of Kinstler.

7. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinstler in view of Tully et al.

For the securing means of Kinstler to include an adhesive deposited between the trim ring and the rim flange would have been obvious as taught by Tulley et al in order to better secure the trim ring to the wheel rim.

***Allowable Subject Matter***

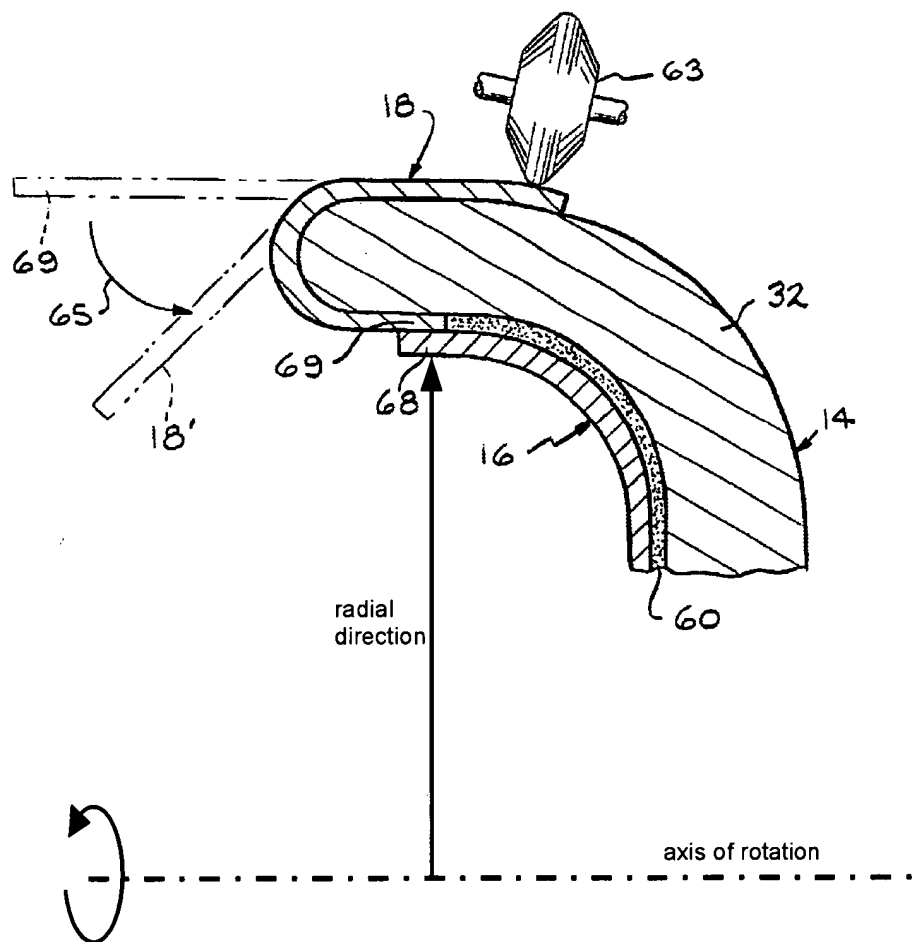
8. Claims 7, 8, 10, 12, 13, 14, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Response to Arguments**

9. Applicant's arguments filed July 9, 2003 have been fully considered but they are not persuasive.

Kinstler clearly shows a portion of the trim ring overlapping the radially outermost periphery of the cladding in a radial direction. See any of figures 2-8. As shown in figure 3, for instance, a line extending in a radial direction from the axis of the wheel assembly will pass through both the trim ring and the cladding.

See figure 3 of Kinstler reproduced below with the additions of radial and axial direction indicators.



It is therefore not understood how Applicants can argue that the cladding of Kinstler does not overlap the trim ring in a radial direction.

Applicants' belief that since the embodiment shown in figure 10 of Kinstler (actually it is figure 9) shows the trim ring and the cladding to abut, then the trim ring and the cladding only "sometimes" overlap is not understood, is in error, and apparently not in the context of the use of Kinstler as a reference. The trim ring and the cladding of the embodiments shown in figures 2-8 are clearly shown and described as overlapping, and the fact that another embodiment might show something else does not change the structure set forth in figures 2-8. Further, Applicants have taken a statement from page 3 (in paragraph 4) of the prior office action and misconstrued the meaning and context of the statement that the trim ring and the cladding always overlap. It is clear from the office action that the statement was made to emphasize that since the trim ring and the cladding are shown to overlap (in figure 5 as noted in the office action, but also figures 2, 3, 4, 6, 7, and 8), and described as overlapping, and since no description or drawing figures present any suggestion that the trim ring and the cladding might have a portion or a condition where there is no overlap, they must be assumed to always overlap along the entire circumference regardless of any tolerance variations.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (703) 308-3768. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

10/17/03

  
RUSSELL D. STORMER  
PRIMARY EXAMINER 10/17/03